IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2124 OF 2005
IN
SECOND APPEAL (ST.)NO.12336 OF 2005

Vasant Kisan Gaikwad & Ors. ..Applicants.

V/s.

Rajendra M. Patil. ..Respondent.

Mr.G. Dwivedi i/b Dwivedi & Co. for applicants.

Mr.S.R.Page for respondent.

CORAM: A.M.KHANWILKAR,J

DATE : JANUARY 31, 2006.

P.C. :

1. Heard.

2. The explanation offered in the application is unacceptable. The advocate on record ought to have filed leave note in case he wanted to visit his native place, which is the excuse given across the bar by the advocate. That has not been done. The advocate on record cannot expect that the matters will be adjourned by the court just because none appears for the parties when the matter is called out for hearing. Suffice it to observe that the explanation offered is not sufficient cause. However, as litigant should not suffer for the mistake of the advocate, application is allowed in

the interest of justice in terms of prayer clause (a) on condition that the advocate on record for the applicants shall pay costs to the High Court Legal Services Committee quantified at Rs.1,000/- within one week and produce the receipt thereof in the office within such time, failing which office to proceed on the presumption that the application is dismissed for non-prosecution.

3. If amount is paid within time Civil Applications be placed for orders in the following week.

4. Status quo to continue for a period of two weeks to enable the advocate on record to comply with the above conditions.